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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,748	11/21/2003	A. L. Pepper Aasgaard	ASA 02-4-2	3143

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SUITER WEST PC LLO  
14301 FNB PARKWAY  
SUITE 220  
OMAHA, NE 68154

EXAMINER

THOMAS, DAVID B

ART UNIT PAPER NUMBER

3723

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/719,748	AASGAARD, A. L. PEPPER	
	<b>Examiner</b>	<b>Art Unit</b>	
	David B. Thomas	3723	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-20 is/are allowed.
- 6) ☒ Claim(s) 1,2,6,7,10-12,16,17 and 21-23 is/are rejected.
- 7) ☒ Claim(s) 3-5,8,9 and 13-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 10, 11, and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Moeller (4,085,337).

Moeller ('337) discloses an electric drill is disclosed having a tool housing, and a power shaft within the housing journaled for rotation. The tool can perform several different functions together or alternatively and includes a jaw closing function, a drilling function, a hammering function, and an extracting function. The tool further includes an automatic means for going from one function to another either automatically by the rotation of a shaft or in response to the extent to which a trigger on the tool is depressed inwardly toward the tool housing.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 6, 7, 12, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moeller ('337), as applied to claims 1, 10, 11, and 21-23 above, in

view of Hylwa et al. (5,960,667).

Moeller ('337), as applied to claims 1, 10, 11, and 21-23 above, discloses the claimed invention except for using jaws to grip the shank of the rivet rather than a bearing structure. Hylwa et al. ('667) teach using a bearing structure for gripping the shank of a rivet instead of jaws. Hylwa et al. ('667) further teach that for the bearing structure, cylindrical, conical, or other shaped pellets may be utilized instead of spherical balls, and that the body may include a plurality of tapered channels each holding a bearing (see Fig. 14). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the tool of Moeller ('337) by replacing the jaw structure, which grips the shank of the rivet, with a bearing structure, such as that of Hylwa et al. ('667), as Hylwa et al. ('667) teach that the bearing device does not wear as quickly as prior art jaw devices.

***Allowable Subject Matter***

5. Claims 3-5, 8, 9, and 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 18-20 are allowed.
7. The following is a statement of reasons for the indication of allowable subject matter: It is the examiner's opinion that the tapered channel which narrows from a region of large cross-sectional area to a region of small cross-sectional area counter to a direction of rotation of the self tapping head has neither been anticipated nor rendered obvious by the prior art of record considered as a whole or in combination, together in

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combination with the rest of the limitations in the independent claims.

***Conclusion***


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Joux, Schwab, and Wille each disclose a tool for setting blind rivets.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David B. Thomas whose telephone number is (703) 308-4250. The examiner can normally be reached on 7-4 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on (703) 308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
dbt

  
David B. Thomas  
Patent Examiner  
Art Unit 3723